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Ms. Raihanah Hj. Abdullah

Academy of Islamic Studies

University of Malaya

Kuala Lumpur



Asia-Europe Institute
University of Malaya



Islamic Legal Education : Malaysian Experience.

Raihanah Abdullah
Department of Shariah and Law
Academy of Islamic Studies
University of Malaya

Background

Scholars of Islamic Law in the West have predicted the future for Islamic Law in Muslim countries as an amalgam of Islamic traditional law and western legal ideas and institutions with the latter are much more dominance than the former. The Muslims on the other hand have always believed that the future is for Islamic Law, although they differ in the methods and manners on how Islamic law can be made applicable without rejecting novel and modern ideas concerning family, economic activities and their ways of life. In religious practice and understanding of certain issues there is a difference between Muslim countries in the Middle East and in this region. Some researchers maintain that the influence of pre-Islamic religions and beliefs remain very important in the Muslim World in South East Asia. Local customs and beliefs in this region is still in the gradual process of being defined and refined by Islam.

Nevertheless, with the resurgence of Islam in the 1980s in these regions, the influence of Islam has started to mark its place in South East Asian Muslim societies and slowly but steadily replacing old customs, practices and beliefs. Thus it is interesting to study the current development of Islamic Law in South East Asian countries through this background in order to understand the factors which make such a blend.¹

This paper focuses only on the Islamic Legal education at the Department of Shariah and Law, University of Malaya

Islamic Legal Education in University of Malaya

The establishment of the Academy of Islamic Studies is a result of a merging between the Department of Islamic Studies and Academy of Islam, which was established in 1960s and 1981 respectively. The former Institution was part of a department under the Faculty of Arts and Social Sciences where students who enrolled at this Faculty would take Islamic Studies as their minor or major subjects. The then Academy of Islam consists of 2 Faculties namely, the Faculty of Shariah and the Faculty of Usuluddin. It also offered the Islamic education and matriculation programme. At this early period, the Faculty of Shariah offered both the Islamic Law and the Malaysian Law courses. Lecturers who were trained from the Middle East Universities taught the former courses while the lawyers taught the latter courses.

¹ Extract from abstract submitted to the Toyota Foundation.

Introducing this subject is to promote better understanding on the subject of Islamic Law

After the merging of the two Institutions, the new Academy is today known as the Academy of Islamic Studies. This Institution has 9 Departments and Islamic Law is taught extensively under the Department of Shariah and Law. This Academy offers a bachelor in Shariah majoring in Law. Students who graduate in this programme is qualified to apply for the post as a legal officer in the Shariah courts or as a practicing Shariah Lawyer after a one year training in Diploma of Shariah Law Practices. The students were fully exposed and trained to the understanding of the Malaysian law, as the curriculum became more systematic and developed. The students have to undergo industrial/legal training at any legal firm, courts or Religious Department for the period of 5 – 6 weeks during their long vacation. (For the 1st and 2nd year students only). The Department of Shariah and Law is a very small with only 2 Associate Professors and 5 lectures and it is still at its infancy stage in its curriculum development.

At the undergraduate level, the courses offered by this Department are divided into 3 components. Namely: -

1. The Traditional Islamic Law (The *Fiqh*) – as its core courses
2. The Administration of Islamic Law in Malaysia, dealing in subjects pertaining to Jurisdiction, Islamic Family Law, the Islamic Law of Succession, Islamic Procedure, Islamic Criminal Law, Administration of Fatwa, Wakaf, Zakat and Bayt al-Mal, Islamic Judiciary system, the law of Islamic Banking etc.
3. The Law courses such as Malaysian Legal system, Constitutional law, contract, criminal, tort, property, evidence etc.

The components of the Islamic Law courses are given great weight compared to the law courses as the students graduated from this programme will acquire the Bachelor of Shariah but not LL.B. At this level no comparative studies with other countries in this region are taught. All the traditional Islamic Laws (*Fiqh*) are taught in Arabic whereas the other two components are taught in the Malay Language.

However at the Masters level (by coursework and dissertation), the Department is offering a course on the reform of Islamic Law in Muslim countries as a core subject to post graduate students to those who registered under this Department. This is a comparative course pertaining to Islamic Law as applied in selected Muslim countries. This course will include constitutional law, legal background, and methodology of reform, human rights, contract, family, and also criminal law.

Currently the Department has 8 Masters (by Dissertation) and 2 PhD candidates who are doing research in the area of family, the law of Islamic banking and legal reform in Southern Thailand, Brunei and Indonesia.

Due to the demands from the law and Islamic law graduate students to practice in the Shariah courts, the Department is preparing to offer a Diploma in Shariah Law Practice. The courses were meant to cater for all kinds of legal background either from the Middle East or local Universities and also the LL.B graduates. One of the courses proposed to be offered in this programme is on Islamic Law in South East Asia. The purpose of

introducing this subject is to promote better understanding on the subject of Islamic Law in this region. This course consists the discussions regarding to the history of Islamic Law in SEA and how local practices and also colonisation have affected the application of Islamic law in this region. The administration of Islamic Law and the Sharia courts and also the legal reforms are also part of the proposed curriculum. In order to have a good understanding of the Islamic legal background and the application of Islamic law in this region, the Department is conducting a research entitled, "Islamic Law and Shariah courts in SEA: Reform and Future Prospect" funded by the Toyota Foundation as a preparation and reference for the lecturers to teach this new subject.

Curriculum Vitae

Conclusion H ABDULLAH

By introducing the Islamic law in SEA as a subject it is hoped that the department can promote better understanding of Islamic legal system in this region. It also will provide an opportunity for the establishment of a center for Islamic Legal studies in South East Asian countries. Further academic activities could be established such as student exchange program, collaborative research and more opportunities for post graduate studies in this area. Although the law in SEAn countries is based on either common or civil law, Islamic Law on the other hand, has a similar origin and sources, which makes it more interesting and meaningful for students pursuing the course.

- Phd candidate, International Islamic University, Malaysia

Publications:

- "Naftah Perantukan Undang-undang dan Pelaksanaannya" (Motivation Provisions and Implementation) in *Jurnal Undang-undang IKIM* (IKIM Law Journal), vol. 4, No.1, 2001
- "Wanita, Perampasan dan Mahkamah Syariah" (Women, Divorce and the Syariah Courts) in Rakhmah Abdullah (ed.), *Wanita dan Perundangan Islam* (Women and Islamic Law), Uiniah Publishers, Kuala Lumpur, 2001
- "Polygami dalam Perundangan Islam" (Polygamy under Islamic Law) in Rakhmah Talib and Shanti Thambiah (eds.), *Gender, Budaya dan Masyarakat*, (Gender, Culture and Society), Gender Studies Programme, Faculty of Arts and Social Sciences, University of Malaya, 1998

Area of Research:

- Islamic Family Law, Islamic Law and Society and Gender Issues in Islamic Law



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Curriculum Vitae

RAIHANAH ABDULLAH

Experience:

- Lecturer (1991 – to present)
- Shariah Lawyer at the Shariah Court (Federal Territory) (1997 – to present)

Education:

- B. Sha (Hons) , University of Malaya, 1988
- Cert. Of English Law (LSE) 1989
- M..A, School of Oriental and African Studies, 1991
- Phd candidate, International Islamic University, Malaysia.

Publications:

- “*Nafkah: Peruntukan Undang-undang dan Pelaksanaannya*” (Maintenance: Provisions and Implementation” in *Jurnal Undang-undang IKIM* (IKIM Law Journal), vol: 4, No.1, 2001
- “*Wanita, Perceraian dan Mahkamah Syariah*” (Women, Divorce and the Shariah Courts) in Raihanah Abdullah (ed.), *Wanita dan Perundangan Islam* (Women and Islamic Law), Ilmiah Publishers: Kuala Lumpur, 2001
- “*Poligami dalam Perundangan Islam*” (Polygamy under Islamic Law) in Rokiah Talib and Shanti Thambiah (eds.), *Gender, Budaya dan Masyarakat*, (Gender, Culture and Society), Gender Studies Programme, Faculty of Arts and Social Sciences, University of Malaya, 1998

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